

writing, of the existence of the violation, condition or practice. The statement shall set forth a phone number and address where the person can be contacted.

(b) The identity of any person supplying information to the Office relating to a possible violation or imminent danger or harm shall remain confidential with the Office, if requested by that person, unless that person elects to accompany the inspector on the inspection, or unless disclosure is required under the Freedom of Information Act (5 U.S.C. 552) or other Federal law.

(c) If a Federal inspection is conducted as a result of information provided to the Office by a person as described in paragraph (a) of this section, the person shall be notified as far in advance as practicable when the inspection is to occur and shall be allowed to accompany the authorized representative of the Secretary during the inspection. Such person has a right of entry to, upon and through the coal exploration or surface coal mining and reclamation operation about which he or she supplied information, but only if he or she is in the presence of and is under the control, direction and supervision of the authorized representative while on the mine property. Such right of entry does not include a right to enter buildings without consent of the person in control of the building or without a search warrant.

(d) Within ten days of the Federal inspection or, if there is no Federal inspection, within 15 days of receipt of the person's written statement, the Office shall send the person the following.

(1) If a Federal inspection was made, a description of the enforcement action taken, which may consist of copies of the Federal inspection report and all notices of violation and cessation orders issued as a result of the inspection, or an explanation of why no enforcement action was taken;

(2) If no Federal inspection was conducted, an explanation of the reason why; and

(3) An explanation of the person's right, if any, to informal review of the action or inaction of the Office under § 842.15.

(e) The Office shall give copies of all materials in paragraphs (d)(1) and (d)(2) of this section within the time limits specified in those paragraphs to the person alleged to be in violation, except that the name of the person supplying information shall be removed unless disclosure of his or her identity is permitted under paragraph (b) of this section.

§ 842.13 Right of entry.

(a) Each authorized representative of the Secretary conducting a Federal inspection under § 842.11:

(1) Shall have a right of entry to, upon, and through any coal exploration or surface coal mining and reclamation operation without advance notice or a search warrant, upon presentation of appropriate credentials;

(2) May, at reasonable times and without delay, have access to and copy any records, and inspect any monitoring equipment or method of exploration or operation required under the applicable program; and,

(3) Shall have a right to gather physical and photographic evidence to document conditions, practices or violations at the site.

(b) No search warrant shall be required with respect to any activity under paragraph (a) of this section, except that a search warrant may be required for entry into a building.

§ 842.14 Review of adequacy and completeness of inspections.

Any person who is or may be adversely affected by a surface coal mining and reclamation operation or a coal exploration operation may notify the Director or his or her designee in writing of any alleged failure on the part of the Office to make adequate and complete or periodic Federal inspections. The notification shall include sufficient information to create a reasonable belief that the regulations of this part are not being complied with and to demonstrate that the person is or may be adversely affected. The Director or his or her designee shall within 15 days of receipt of the notification determine whether adequate and complete or periodic inspections have been made. The Director or his or her designee shall furnish the complainant

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with a written statement of the reasons for such determination and the actions, if any, taken to remedy the non-compliance.

§ 842.15 Review of decision not to inspect or enforce.

(a) Any person who is or may be adversely affected by a coal exploration or surface coal mining and reclamation operation may ask the Director or his or her designee to review informally an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for Federal inspection under § 842.12. The request for review shall be in writing and include a statement of how the person is or may be adversely affected and why the decision merits review.

(b) The Director or his or her designee shall conduct the review and inform the person, in writing, of the results of the review within 30 days of his or her receipt of the request. The person alleged to be in violation shall also be given a copy of the results of the review, except that the name of the person who is or may be adversely affected shall not be disclosed unless confidentiality has been waived or disclosure is required under the Freedom of Information Act or other Federal law.

(c) Informal review under this section shall not affect any right to formal review under section 525 of the Act or to a citizen's suit under section 520 of the Act.

(d) Any determination made under paragraph (b) of this section shall constitute a decision of OSM within the meaning of 43 CFR 4.1281 and shall contain a right of appeal to the Office of Hearings and Appeals in accordance with 43 CFR part 4.

§ 842.16 Availability of records.

(a) Copies of all records, reports, inspection materials, or information obtained by the Office under Title V of the Act, this chapter, a Federal program or Federal lands program, and a State program being enforced by the Office under section 504(b) or 521(b) of the Act and part 733 of this chapter or §§ 842.11 or 842.12 shall be made immediately available to the public in the

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area of mining until at least five years after expiration of the period during which the subject operation is active or is covered by any portion of a reclamation bond so that they are conveniently available to residents of that area, except—

(1) As otherwise provided by Federal law; and

(2) For information not required to be made available under § 772.15, § 773.6(d), or § 840.14(d) of this chapter.

(b) The Office shall ensure compliance with paragraph (a) of this section by either:

(1) Making copies of all such records, reports, inspection materials, and other information available for public inspection at a Federal, State or local government office in the county where the mining is occurring or is proposed to occur; or

(2) At the Office's option and expense, providing copies of such information promptly by mail at the request of any resident of the area where the mining is occurring or is proposed to occur, provided that the Office shall maintain for public inspection at a Federal, State, or local government office in the county where the mining is occurring or is proposed to occur a description of the information available for mailing and the procedure for obtaining such information.

(c) Copies of documents and information required to be made available under paragraph (a) of this section shall be provided to the State regulatory authority, if any.

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

[47 FR 35635, Aug. 16, 1982, as amended at 48 FR 44781, Sept. 30, 1983; 65 FR 79670, Dec. 19, 2000]

PART 843—FEDERAL ENFORCEMENT

Sec.

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